



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

August 29, 2019

Nicole Cunningham
Planning, Policy & Quality Unit
Division of Medicaid & Medical Assistance
1901 N. DuPont Hwy. P.O. Box 906
New Castle, DE 19720-0906

RE: DSS Proposed Regulation on TANF CMR School Attendance Requirement [23 DE Reg. 89 (August 1, 2019)]

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHHS)/Division of Social Services (DSS) proposal to amend the sections of the DSS Manual regarding school attendance requirements for Temporary Assistance for Needy Families (TANF) recipients. Parents who receive TANF cash assistance are expected to help their children maintain satisfactory school attendance – otherwise, DSS imposes financial sanctions on the TANF household by reducing the TANF benefit amount. Council would like to share the following observations and requests.

First, Council would recommend that DSS clarify its definition of “satisfactory school attendance.” The proposed regulations state the following: “TANF children are required to maintain satisfactory school attendance as defined by their individual schools or at an 85% attendance rate.” If these metrics are different, which will DSS use – whichever is less? When calculating the attendance rate, will DSS distinguish between excused vs. unexcused absences? How will DSS treat absences due to suspensions? These issues are important because a policy of sanctioning a TANF household when a child does not meet school attendance requirements is harmful for TANF families, who already face numerous challenges.

TANF sanctions punish families who live in poverty by increasing their material hardships, making it even more difficult for them to support their children's education. Poverty is a root cause of chronic absenteeism in school. For example, poor families may lack stable, affordable housing or access to reliable transportation. They may be unable to afford appropriate clothing or supplies that their children need for school. When DSS sanctions families and reduces critical TANF benefits, it drives families further into poverty and only worsens the problems that lead to children missing school. Research on TANF sanctioned families has found that sanctioned TANF recipients are more likely to contend with hardships such as utility shut-offs food shortages, and inability to pay for medical care. (See Review of

Research on TANF Sanctions. University of Washington, West Coast Poverty Center, June 2006.) In short, TANF sanctions can cause more instability in children's lives and increase barriers to regular school attendance.

Second, the DSS school attendance requirement is also likely to have a disproportionate impact on families with children with disabilities. Statistics collected from the U.S. Department of Education show that the chronic absence rate for special education students is 1.5 times higher than for non-disabled students. Multiple factors contribute to this higher absence rate, including the fact that students with chronic health conditions may require frequent or extended absences from school. Students with disabilities may be receiving inadequate educational supports, or they may be experiencing bullying. Also, the U.S. Department of Education's Office of Civil Rights has found that students with disabilities are more than twice as likely to receive an out-of-school suspension than their peers who do not have a disability. DSS should take all of these issues into account and accommodate TANF children with disabilities before imposing sanctions due to unsatisfactory school attendance.

Third, the new regulations state that DSS will issue a one-time bonus payment for TANF children who graduate high school by age 19, with the payment going directly to the high school graduate. This bonus payment will be disregarded as income for TANF and SNAP cases. (This payment is considered highly unlikely to affect other public benefits that a TANF recipient may be receiving, such as Medicaid.) Council would suggest this proposed rule be revised in several ways. DSS should clarify how much this bonus payment will be; DSS should make it clear that a determination regarding eligibility for a bonus payment is an appealable decision; and lastly, DSS should note how it would accommodate children with disabilities who may be unable to graduate by age 19.

Under the Individual with Disabilities Education Act (IDEA) and state regulations, children with disabilities are eligible to receive special education and related services until age 21 or graduation from high school, whichever occurs first. Regardless of their attendance record, students with disabilities may not be prepared to graduate by age 19, and these students may receive additional educational programming until they reach 21 years of age. Therefore, we recommend that DSS amend its policy so that TANF children with disabilities are eligible to receive a bonus payment if they graduate from high school by age 21. It should also be noted that children with disabilities who may need an extended deadline include not only those with individualized education plans (IEPs), but also Section 504 plans, or a disability but no formal plan.

Thank you for your consideration of our comments. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF:kpc